

**STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

Before the Commissioner of Financial and Insurance Regulation

Office of Financial and Insurance Regulation

Enforcement Case No. 08-5775

Agency No. 09-050-L

Petitioner

v

Bosquett & Company
System ID No. 005124

And

Dave D. Fischer
System ID No. 0085095

Respondents

CONSENT ORDER AND STIPULATION

Issued and entered,
on 12/1/09, 2009,
by Stephen R. Hilker
Chief Deputy Commissioner

I.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The staff of the Office of Financial and Insurance Regulation ("OFIR") alleges that the following facts are true and correct:

1. At all times pertinent to the matter herein, Respondent Bosquett & Company was an insurance agency licensed to conduct the business of insurance in the State of Michigan.
2. At all times pertinent to the matter herein, Respondent Dave D. Fischer ("Fischer") was a licensed insurance producer, licensed to conduct the business of insurance in the State of Michigan.
3. Respondent Fischer is the President of Bosquett & Company. Bosquett & Company and Fischer are referred to herein as "Respondents."

4. As licensees, Respondents knew or had reason to know that Section 1207(1) of the Code, MCL 500.1207(1), provides that an agent shall be a fiduciary for all moneys received or held by the agent in his or her capacity as an agent. Failure by an agent in a timely manner to turn over the money which he or she holds in a fiduciary capacity to the persons to whom they are owed is prima facie evidence of violation of the agent's fiduciary responsibility.
5. As licensees, Respondents further knew or had reason to know that Section 1239(1)(d) of the Code, MCL 500.1239(1)(d), provides that the commissioner may place on probation, suspend, or revoke an insurance producer's license for improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.
6. As licensees, Respondents further knew or had reason to know that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), provides that the Commissioner may place on probation, suspend, or revoke an insurance producer's license for using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

COUNT I

7. On September 26, 2008, Services for Older Citizens paid premiums to Respondents in the amount of \$3,000.00. However, Respondents failed to remit the premiums causing the cancellation of Services for Older Citizens' insurance policy due to non-payment of premium in the amount of \$3,000.00.
8. By engaging in the foregoing conduct, Respondents violated Sections 1207(1) and 1239(1) of the Code.

COUNT II

9. On November 25, 2008, Harbor Town 1 Condominium Association paid premiums to Respondents in the amount of \$1,181. However, Respondents failed to remit the premiums causing the cancellation of Harbor Town 1 Condominium Association's insurance policy due to non-payment of premium in the amount of \$1,181.
10. By engaging in the foregoing conduct, Respondents violated Sections 1207(1) and 1239(1) of the Code.

COUNT III

11. In January 2009, Respondents received premiums in the amount of \$14,216.25 on behalf of Palm Plastics Ltd. On February 1, 2009, Palm Plastics Ltd received a Notice of Cancellation from Great Northern Insurance Company because Respondents failed to remit premiums due in the amount of \$14,216.25.

12. By engaging in the foregoing conduct, Respondents violated Sections 1207(1) and 1239(1) of the Code.

COUNT IV

13. On or about June 2, 2009, OFIR received a complaint from Center Steel Sales, Inc. (Center Steel) According to the complaint, Center Steel paid premiums in the amount of \$31,309.00 to Bosquett & Company for its worker compensation, commercial package and umbrella policies.
14. Respondents failed to timely remit the premiums to Citizen Insurance Company of America (Citizens), which resulted in Citizens issuing notices of cancellation of the insureds' worker compensation, commercial package and umbrella policies.
15. In addition, on or about June 17, 2009, Citizens Insurance and the Hanover Group, et al., suspended Respondents agency agreements due to the Respondents' repeated failure to timely remit premiums to Citizens Insurance and the Hanover Group, et al.
16. By engaging in the foregoing conduct, Respondents violated Sections 1207(1) and 1239(1) of the Code.

COUNT V

17. On or about February 11, 2009, Respondents received premium payments relating to policies of insurance for The American Team, Inc.
18. On or about July 15, 2009, OFIR received information, which indicated that policies of insurance relating to an insured, The American Team, Inc. was cancelled for non-payment of premiums despite the fact that the The American Team, Inc. had paid its premiums in full to Respondents.
19. By engaging in the foregoing conduct, Respondents violated Sections 1207(1) and 1239(1) of the Code.

COUNT VI

20. On or about April 3, 2009, Respondents received premiums in the amount of \$10,000 for a policy of insurance relating to Assisted Care Transportation, Inc.
21. Respondents failed to timely remit the premiums causing cancellation of Assisted Care Transportation, Inc.'s policy of insurance with National Casualty Company for nonpayment of premiums on or about July 13, 2009.
22. By engaging in the foregoing conduct, Respondents violated Sections 1207(1) and 1239(1) of the Code.

COUNT VII

23. On or about April 20, 2009, Respondents received premiums in the amount of \$3,411 for a policy of insurance relating to Zstate LLC. Respondents failed to remit the premium causing cancellation of Zstate LLC's policy of insurance with Western Home Insurance for non payment of premium on or about June 25, 2009.
24. By engaging in the foregoing conduct, Respondents violated Sections 1207(1) and 1239(1) of the Code.

COUNT VIII

25. On or about April 27, 2009, Cobasys LLC renewed its D&O policy of insurance and paid Respondents premiums in the amount of \$55,000.
26. Respondents failed to timely remit the premiums for the D&O policy to Navigators Insurance Company causing Navigators Insurance Company to issue a Notice of Cancellation on July 17, 2009, to Cobasys LLC.
27. By engaging in the foregoing conduct, Respondents violated Sections 1207(1) and 1239(1) of the Code.

COUNT IX

28. On or about September 26, 2008, GreenPath, Inc. renewed its D&O policy of insurance and paid Respondents premiums in the amount of \$41,168.00 on September 19, 2008.
29. Respondents failed to timely remit the premiums for the D&O policy to National Union Insurance Company causing National Union Insurance Company to issue a Notice of Cancellation on August 11, 2009, to GreenPath, Inc. Respondents had deposited the check in the amount of \$41,168.00 into Bosquett & Company's checking account on September 23, 2008.
30. By engaging in the foregoing conduct, Respondents violated Sections 1207(1) and 1239(1) of the Code.

COUNT X

31. First Insurance Funding Corp. (First) is an insurance premium finance company licensed to do business in the State of Michigan.
32. Several insureds entered into commercial premium finance agreements with First. Acting in accordance with the agreements, First made the premiums payments on behalf of the insureds to Bosquett & Company. However, Respondents failed to remit

the premium payments they received from First to the insurance carriers, causing the carriers to cancel the insureds' insurance policies.

33. By engaging in the foregoing conduct, Respondents violated Sections 1207(1) and 1239(1) of the Code.

COUNT XI

37. On or about September 23, 2009, Tri-County Disaster Restoration, LLC cancelled its commercial general liability policy, Workers Compensation policy and automobile policy of insurance with Auto-owners Insurance Company effective October 1, 2008. As a result of the early cancellation of the foregoing policies, Respondents owed Tri-County Disaster Restoration, LLC returned premiums in the amount of \$2,076.77.
38. To date, Respondents have not paid Tri-County Disaster Restoration, LLC its returned premiums in the amount of \$2,076.77, violating Sections 1207(1) and 1239(1) of the Code.

II. ORDER

Based upon the Findings of Fact and Conclusions of Law above and Respondents' stipulation, the Commissioner ORDERS that:

1. Respondents shall CEASE and DESIST from violating MCL 500.1239 and MCL 500.1207.
2. Forthwith, Respondents shall CEASE and DESIST from engaging in any activity requiring licensure under the Michigan Insurance Code, and deliver to the Chief Deputy Commissioner their original resident producer license certificates within five days of the date of entry of this Order.
3. Respondents resident producer licenses issued pursuant to the provisions of the Michigan Insurance Code are hereby REVOKED.
4. Respondents shall make restitution to insureds or other claimants to cover incurred losses, damages, or other harm attributable to the acts of the Respondents found to be in violation of Chapter 12 of the Insurance Code. Respondents shall make restitution within 60 days of the date of this Consent Order as follows:


Harbor Town 1 Condominium Association	\$1,181.00
Palm Plastics Ltd	\$14,216.25
Center Steel Sales, Inc.	\$31,309.00
Assisted Care Transportation, Inc.	\$10,000
Zstate LLC	\$3,411

Cobasys LLC	\$55,000
First Insurance Funding Corp.	\$75,000
Tri-County Disaster Restoration, LLC	\$2,076.77

5. Additionally, Respondents shall conduct an audit of its books and records to determine the amount of unearned premiums and/or credits that is owed to insureds and within 60 days of identification, Respondents shall make similar restitution to any and all insureds or other claimants identified after the date of this order.
6. If Respondents' books and records have been sold to another entity, Respondents shall ensure that an audit of the books and records is conducted to determine the amount of unearned premiums and/or credits that were owed at the time of the sale of Respondents' books and records. Upon receiving the results of the audits, Respondents shall within 60 days of identification, make similar restitution to any and all insureds or other claimants identified after the date of this order.
7. Respondents shall ensure that the above-mentioned audits are conducted within 30 days of the date of entry of this order.
8. Respondents shall provide OFIR with a copy of the audits within 40 days of the date of this of entry of this order.
9. Respondents are prohibited from taking any action, publicly or privately, to create the impression that the aforementioned violations are without factual basis. Failure to comply with this prohibition will constitute a material default of this Order.

IT IS SO ORDERED

Dated: 12/1/09



Stephen R. Hilker,
Chief Deputy Commissioner

III.
STIPULATION

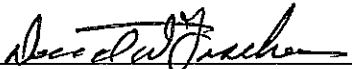
1. Respondents have read and understand the Consent Order above. Respondents agree that the Chief Deputy Commissioner has jurisdiction and authority to issue this Consent Order pursuant to the Michigan Insurance Code. Respondents waive the right to a hearing in this matter if this Consent Order is issued. Respondents understand that the Consent Order and Stipulation will be presented to the Chief Deputy Commissioner for approval and the Chief Deputy Commissioner may or may not issue this Consent Order. Respondents waive any objection to the Commissioner deciding this case following a hearing in the event the Consent Order is not approved.
2. Respondents neither admit nor deny to the Findings of Fact and Conclusions of Law set forth in the above Consent Order. Respondents agree to the entry of the Consent Order. Respondents further agree to comply with the Consent Order.
3. Respondents agree to refrain from taking any action, publicly or privately, creating the impression that the violations are without factual basis and further agree that failure to comply with this prohibition constitutes a material default of this Order.

Bosquett & Company

Dated: Nov. 30, 2009

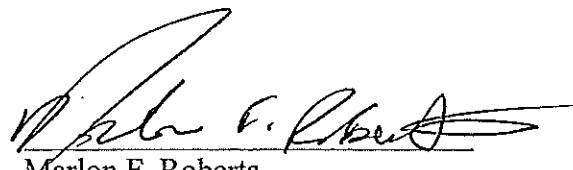

By: DAVID D. FISCHER
Its: PRESIDENT

Dated: Nov. 30, 2009


Dave D. Fischer

The Office of Financial and Insurance Regulation staff approves this stipulation and recommends that the Chief Deputy Commissioner issue the above Consent Order.

Dated: 11/30/2009


Marlon F. Roberts
Staff Attorney

